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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: *Compans et al.*

Art Unit: 1648

Serial No: 09/733,166

Examiner: B.Q. Li

Filed: December 8, 2000

Confirmation No. 2363

For: INDUCTION OF IMMUNOGLOBULIN CLASS SWITCHING BY INACTIVATED
VIRAL VACCINES



REQUEST FOR REFUND

Mail Stop: 16
Director of the U.S. Patent and Trademark Office
Alexandria, VA 22313-1450

Sir:

The undersigned respectfully requests refund of the fees paid in the amount of \$585 (\$165 for Notice of Appeal and \$420 for the 2nd and 3rd month extension of Time) on February 27, 2004 in the above-referenced application.

The reason for this request is based on the fact that Applicants filed a Response on December 11, 2003 to the Office Action issued on August 27, 2003 but did not hear from the United States Patent and Trademark Office until March 24, 2004 (see the first page of the Office Action). A copy of the Office Action dated March 24, 2004, indicating

STATUS AND ENTITY
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the United States Patent and Trademark Office delay is enclosed herewith (see the first paragraph). In order to keep this application in prosecution beyond the statutory deadline of February 27, 2004, Applicants had to file a Notice of Appeal and a Petition for Extension of Time with the fees of \$585.00. This payment was necessitated by the United States Patent and Trademark delay and should thus be refunded to the Applicants.

Please credit the requested amount to Deposit Account 07-1969.

Respectfully submitted,



Heeja Yoo-Warren, Ph.D.
Reg. No. 45,495

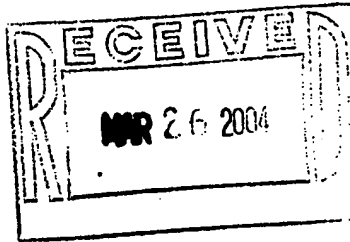
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Attorney docket No. 96-99
nk: April 15, 2004



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,166	12/08/2000	Richard W. Compans	96-99	2363
23713	7590	03/24/2004		
GREENLEE WINNER AND SULLIVAN P C 5370 MANHATTAN CIRCLE SUITE 201 BOULDER, CO 80303				
			EXAMINER LI, BAO Q	
			ART UNIT 1648	PAPER NUMBER



DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED

MAR 29 2004 *HWDPMF*

Greenlee, Winner, Sullivan

ENT'D MAR 26 2004

DETAILED ACTION

Reopen

This is reopen prosecution because after reconsidering the claimed invention, new grounds of rejections are requested for the record of the prosecution. Office apologizes any inconveniency that brought by this reopen practice.

Response to Amendment

This is a response to the amendment, paper No. 26, filed 12/21/03. Claims 62, 64-65 and 67-70 are pending and considered before the examiner.

Please note any ground of rejection(s) that has not been repeated is removed. Text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Claim Rejections - 35 USC § 112

1. Claims 62, 64-65 and 67-68 are still are rejected under 35 U.S.C. 112, first paragraph on the same ground as stated in the previous Office Action, because the specification, while being enabling for using a formalin inactivated influenza virus P8/5 to induce a serum immune response in a CD4 deficient mouse model, does not reasonably provide enablement for using any or all inactivated or attenuated virus to induce a serum immune response in a CD4 deficient animal and human. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.
2. Applicants traverse the rejection and submit that the claimed invention is based on the inventors' actual data that formalin inactivated intact influenza virus induce antibody production in mice lacking functional CD4+ T cells. And applicants argue that the examiner does not provide an objective scientific reason why a skilled artisan would not expect that any attenuated or inactivated virus can not induce an immune response in a CD4+ cell deficient subject as was demonstrated in the specification using influenza virus as example.
3. Applicants' argument has been respectfully considered; however, it is not found persuasive because the state of art indicate that vaccination of immune compromised patients,